

70 FR 54355, September 14, 2005

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-867

Automotive Replacement Glass Windshields from the People's Republic of China: Final Results of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("the Department") published its preliminary results of administrative review of the antidumping duty order on automotive replacement glass ("ARG") windshields from the People's Republic of China ("PRC") on May 9, 2005. See Automotive Replacement Glass Windshields from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review 70 FR 24373 (May 9, 2005) ("Preliminary Results"). The period of review ("POR") is April 1, 2003, through March 31, 2004. We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made certain changes to our calculations. The final dumping margins for this review are listed in the "Final Results of Review" section below.

EFFECTIVE DATE: (insert date of publication in the Federal Register)

FOR FURTHER INFORMATION CONTACT: Will Dickerson or Jon Freed, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1778 and (202) 482-3818, respectively.

BACKGROUND

On April 4, 2002, the Department published in the Federal Register the antidumping duty order on ARG windshields from the PRC. See Antidumping Duty Order: Automotive

Replacement Glass Windshields from the People's Republic of China, 67 FR 16087

(April 4, 2002). On April 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on ARG windshields from the PRC for the period April 1, 2003, through March 31, 2004. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review, 69 FR 17129 (April 1, 2004). On April 21, 2004, Pilkington North America, Inc. (“PNA”), an importer of subject merchandise during the POR, requested an administrative review of Changchun Pilkington Safety Glass Company Limited and Wuhan Yaohua Pilkington Safety Glass Company Limited (collectively “the Pilkington JVs”), producers from which it imported the subject merchandise (with PNA, collectively “Pilkington”). On April 24, 2004, Dongguan Kongwan Automobile Glass, Ltd. (“Dongguan Kongwan”) and Peaceful City, Ltd. (“Peaceful City”) requested an administrative review of their sales to the United States during the POR. On April 26, 2004, Fuyao Glass Industry Group Company, Ltd. (“Fuyao”) requested an administrative review of its sales to the United States during the POR. On April 29, 2004, Shenzhen CSG Automotive Glass Co., Ltd. (“CSG”) requested an administrative review of its sales to the United States during the POR.¹ No other interested parties submitted requests for review. On May 27, 2004, the Department published in the Federal Register a notice of the initiation of the antidumping duty administrative review of ARG windshields from the PRC for the period April 1, 2003, through March 31, 2004. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 69 FR 30282 (May 27, 2004) (“Initiation Notice”).

¹ CSG also listed the following variations of the company names that may have been used to represent it during the POR: Shenzhen CSG Automotive Glass Co., Ltd.; Shenzhen Benxun AutoGlass Co., Ltd.; Shenzhen Benxun Automotive Glass Co., Ltd.; Shenzhen Benxun Automotive Co., Ltd.; Shenzhen Benxun AutoGlass Co., Ltd., d/b/a Shenzhen CSG Automotive Glass Co., Ltd.; Shenzhen CSG Automotive Glass Co., Ltd. (Shenzhen Benxun Automotive Co., Ltd.); and Shenzhen CSG Automotive Glass Co., Ltd. (Shenzhen Benxun Automotive Glass Co., Ltd.). Subsequent to CSG’s request for an administrative review, the Department determined that CSG is a successor-in-interest to Shenzhen Benxun Automotive Glass Co., Ltd., which received a separate rate in the investigation of this proceeding. See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Automotive Replacement Glass Windshields From the People's Republic of China, 69 FR 43388 (July 20, 2004).

On October 12, 2004, the Department published a notice of partial rescission, which rescinded the administrative review with regard to the following companies: Dongguan Kongwan, Fuyao, and Peaceful City. See Certain Automotive Replacement Glass Windshields From the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review, 69 FR 60612 (October 12, 2004). On December 3, 2004, the Department published a notice in the Federal Register extending the time limit for the preliminary results of review from December 31, 2004, to March 31, 2005. See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Automotive Replacement Glass Windshields from the People's Republic of China, 69 FR 70224 (December 3, 2004). Additionally, on March 22, 2005, the Department published a notice in the Federal Register further extending the time limit for the preliminary results of review to May 2, 2005. See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Automotive Replacement Glass Windshields from the People's Republic of China, 70 FR 14445 (March 22, 2005). The Department published the preliminary results on May 9, 2005. See Preliminary Results, 70 FR at 24373.

We invited parties to comment on our preliminary results. See Preliminary Results, 70 FR at 24381. On June 8, 2005, the Department received a case brief from CSG. We did not receive a case brief from PNA or any other interested party. In addition, we did not receive any rebuttal comments. On August 18, 2005, we issued a memorandum to all interested parties requesting comments regarding a change in the Department's calculated regression-based wage rate methodology. See Memorandum from Will Dickerson to the File: Automotive Replacement Glass Windshields from the People's Republic of China - New Non-Market Economy Wage Rates (August 18, 2005). No parties provided comments. We have conducted this administrative review in accordance with Section 751 of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.213.

Scope of Order

The products covered by this order are ARG windshields, and parts thereof, whether clear or tinted, whether coated or not, and whether or not they include antennas, ceramics, mirror buttons or VIN notches, and whether or not they are encapsulated. ARG windshields are laminated safety glass (i.e., two layers of (typically float) glass with a sheet of clear or tinted plastic in between (usually polyvinyl butyral)), which are produced and sold for use by automotive glass installation shops to replace windshields in automotive vehicles (e.g., passenger cars, light trucks, vans, sport utility vehicles, *etc.*) that are cracked, broken or otherwise damaged.

ARG windshields subject to this order are currently classifiable under subheading 7007.21.10.10 of the Harmonized Tariff Schedules of the United States (HTSUS). Specifically excluded from the scope of the order are laminated automotive windshields sold for use in original assembly of vehicles. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the Issues and Decision Memorandum, dated September 6, 2005, (“Decision Memo”) which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Decision Memo is attached to this notice as an appendix. The Decision Memo is a public document which is on file in the Central Records Unit (“CRU”) in room B-099 in the main Department building, and is accessible on the Web at <http://www.ia.ita.doc.gov/>. The paper copy and electronic version of the memorandum are identical in content.

Partial Facts Available

In the preliminary results, the Department used facts otherwise available in conducting its analysis of certain U.S. sales which were not reported by CSG. Sections 776(a)(2)(A) and 776(a)(2)(B) of the Act provide that the Department shall use facts available when an interested party withholds information that has been requested by the Department or when an interested

party fails to provide the information requested in a timely manner and in the form requested. During verification, the Department discovered that CSG had failed to provide information regarding certain U.S. sales of subject merchandise by the deadline for submitting such information. See Preliminary Results, 70 FR at 24377. Consequently, the Department lacked information necessary to conduct a complete and accurate analysis of these U.S. sales of subject merchandise and determined to use facts otherwise available for the U.S. sales which were not reported by CSG. See sections 776(a)(1) and 776(a)(2)(B) of the Act.

Section 776(b) of the Act provides that the Department may use adverse inferences when an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. In applying facts available to the unreported sales, the Department determined that adverse inferences were warranted because CSG failed to cooperate by not acting to the best of its ability to comply with the Department's requests to report all U.S. sales in a timely manner. CSG had numerous opportunities to present complete and accurate information regarding its U.S. sales but failed to do so. See Preliminary Results, 70 FR at 24377. Because the administrative record was incomplete with regard to these unreported U.S. sales, the Department applied the PRC-wide rate from the petition as adverse facts available (“AFA”), in accordance with Section 776(b) of the Act. See Preliminary Results, 70 FR at 24377. There have been no arguments submitted to cause us to reconsider our decision in the preliminary results in this respect. Therefore, we have determined that the application of partial facts available continues to be appropriate for certain U.S. sales which were not reported by CSG.

Corroboration of Adverse Facts Available

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is defined in the Statement of Administrative Action (“SAA”) as “information derived from the petition that gave rise to the

investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See SAA at 870. The SAA provides that to “corroborate” means simply that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. As noted in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In the preliminary results, we corroborated the petition rate that was applied as AFA to CSG’s unreported sales. See Preliminary Results, 70 FR at 24378; see also Memorandum from Will Dickerson to Robert Bolling: Corroboration of the PRC-Wide Adverse Facts-Available Rate, dated May 2, 2005 (“Second Review Preliminary Corroboration Memo”). The Department explained that the reliability of the petition rate was determined in the investigation and that no information in the current review was presented that challenges the reliability of this information. See Second Review Preliminary Corroboration Memo at 2. Since the preliminary results, no parties have placed arguments on the record to cause us to reconsider the reliability of the petition rate. Thus, the Department continues to find that the information is reliable.

In the preliminary results, the Department found the petition rate to be relevant because the record of this administrative review contained margins within the range of the petition margin, although we stated that we would reexamine its relevancy by considering all margins on the record at the time of the final results. See Preliminary Results, 70 FR at 24378. In these final results, the Department compared the final margin calculations in this administrative review with

the rate of 124.5 percent from the original petition to assess the relevancy of the partial AFA rate it has chosen. We find that the highest dumping margins for both CSG and PNA exceed the petition rate of 124.5 percent. See Memorandum from Will Dickerson to Robert Bolling: Corroboration of the PRC-Wide Adverse Facts-Available Rate, dated September 6, 2005, at Attachment 1. Therefore, the PRC-wide rate continues to be within the range of the highest margins we have determined in this administrative review. Since the record of this administrative review contains margins within the range of the petition margin, we determine that the rate from the petition continues to be relevant for use in this administrative review. Further, the rate used is currently applicable to all exporters subject to the PRC-wide rate.

As the petition rate is both reliable and relevant, we determine that it has probative value. As a result, the Department determines that the petition rate is corroborated, to the extent practicable, for the purposes of this administrative review and may reasonably be applied to CSG as a partial AFA rate. Accordingly, we determine that the highest rate from any segment of this administrative proceeding (i.e., the rate of 124.5 percent) is corroborated in accordance with the requirement under section 776(c) of the Act (i.e., has probative value), and we have assigned this rate to CSG's unreported sales.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for CSG. See Decision Memo at 6. In the preliminary results, the Department inadvertently made a currency conversion error with respect to certain unreported sales of CSG. For the final results, the Department corrected the currency conversion error.

Additionally, for these final results, the Department has modified its regression-based PRC wage rate. The specific calculation changes can be found in CSG Final Analysis Memo and Final Results of Review of the Order on Automotive Replacement Glass Windshields from the People's Republic of China: Pilkington North America Program Analysis for the Final Results

of Review Memorandum from Will Dickerson, Case Analyst, through Robert Bolling, Program Manager, Office VIII to the File, dated September 6, 2005 (“PNA Final Analysis Memo”).

Final Results of Review

We determine that the following percentage margins exist on exports of ARG windshields from the PRC for the period April 1, 2003, through March 31, 2004:

Automotive Replacement Glass Windshields from the PRC	
Producer/Manufacturer/Exporter	Weighted-Average Margin (Percent)
CSG	0.93
Pilkington	0.91

Assessment Rates

The Department will issue appraisalment instructions directly to U.S. Customs and Border Protection (“CBP”) within 15 days of publication of these final results of administrative review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review. For CSG, we divided the total dumping margins of its reviewed sales by the total entered value of its reviewed sales for each applicable importer to calculate *ad-valorem* assessment rates. Because Pilkington did not report entered value, we divided the total dumping margins of its reviewed sales by the total quantity (measured in square meters) of subject merchandise sold to each applicable importer during the POR to calculate a per-unit assessment amount. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each importer's entries under the relevant order during the POR.

To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates. For CSG, we aggregated the dumping margins calculated for all U.S. sales to each importer and divided this amount by the entered value of the sales to each importer. For further details see

CSG Final Analysis Memo. For Pilkington, we divided the total dumping margins for each importer by a constructed entered value of the sales to each importer, as Pilkington did not report entered value. For further details see PNA Final Analysis Memo. Where an importer-specific *ad valorem* rate is *de minimis*, we will order CBP to liquidate appropriate entries without regard to antidumping duties.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of ARG windshields from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by Section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above, except that the Department shall require no deposit of estimated antidumping duties for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis*; (2) for previously reviewed or investigated companies not listed above that have separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 124.5 percent, the current PRC-wide rate; and (4) the cash deposit rate for all non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (“APOs”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date

Appendix 1

Issues in the Decision Memorandum

Shenzhen CSG's Comments

Comment 1: Currency Used to Value Certain Unreported Sales of CSG

Comment 2: Treatment of the By-Product Offset in Normal Value